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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,162	12/05/2003	Eric Walker	03-026	8570

			EXAMINER
37420	7590	11/20/2006	FABER, DAVID

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ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/729,162	WALKER, ERIC
	Examiner	Art Unit	
	David Faber	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 November 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-10,12 and 16-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-10, 12, 16-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>11/2/2006</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This office action is in response to the amendment filed 2 November 2006.

2.   Claims 1-3, 6-7, 9-10, 12, and 16-17 have been amended. Claims 11 and 13-15 have been cancelled by the Applicant. Claims 18-21 have been added.

3.   The objection to the IDS filed on 25 March 2005 for not being considered has been withdrawn necessitated by the filing of the IDS on 2 November 2006. The objection to the drawings has been withdrawn necessitated by the filing of replacement paragraphs to the specifications. The rejection of claims 6-15, under 35 USC 101, has been withdrawn necessitated by the amendment.

4.   Claims 1-10, 12, and 16-21 are pending. Claims 1,6, 10, 13, and 16 are independent claims

Information Disclosure Statement

5.   The information disclosure statement (IDS) submitted on 2 November 2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

6.   The drawings were received on 5 December 2003 are accepted by the replacement paragraphs to the specification.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1, 3-4, 6-8, 10, 16-18, and 20-21 remain rejected under 35 U.S.C. 102(b)

as being anticipated by Coloring.com (Coloring.com, "Coloring.com - free online

interactive coloring pages and coloring books", pp 1-27, 28-31)

Examiner provides printouts (pgs 1-16) that Coloring.com of showing the features

and functionality disclosed to as early as November 29, 2002. Furthermore, Examiner

used Screenshots taken on 8/1/2006 to show the complete and working functionality of

the features within Coloring.com that has been accessible since at least November 29,

2002.

(Added 11/9/2006: Examiner provided additional pages pp 28-31 of

screenshots of Coloring.com, showing the features and functionality disclosed to

as early as November 29, 2002, taken on 11/9/2006 for the rejection of the newly

added Claim 21 necessitated by the amendment.)

As per independent claim 1, Coloring.com discloses a method comprising:

- · associating at least one color with a markup language element capable of

  accepting image content, (pp 6, 7, 8, 9-16,17-18: discloses a web site, using

a browser, having the ability to show markup elements (pp 6, list of the

images or graphics the user may choose), wherein each markup element is

an graphic or image being shown capable of being separately shown to the

user (pp 8 discloses on embodiment) of receiving colors (color is an attribute

of an image, thus image content) from the palette on the left menu of colors.

PP 9-16, and 18 discloses the source code behind the web page of the

markup language element (graphic or image) wherein in its visual form,

displaying a graphic or image that contain many patterns and shapes used to

form a visual figure, which a person is capable of identifying, e.g. a rabbit on

pp 8, on a different colored background. The code written in HTML enables

the graphic or image to accept colors. In addition, a user can choose among

the colors on the palette to the left .(pp 8, 17))

- applying a grayscale image as content of the element, and (Coloring.com

  discloses a grayscale images wherein only the two colors are shown, white

  and black; wherein black and white images are a form of grayscale images.

  Thus, the grayscale image is used as content for the element shown in pp 8,

  17 of the web page.

- applying the at least one color associated with the element as at least one

  component color of the content image. (A user selects a color on the color

  palette on the menu on the left. Then once the color has been selected, the

  user clicks on a pattern of a portion of the image to fill it with the selected

color. Doing so fills the up that portion or pattern with that color shown in pp
20-22.)

As per dependent claim 3, Coloring.com discloses a method further:

- displaying at least the content image to a user (pp 17)

- providing a color palette containing a plurality of individually selectable
  colors, (pp 20, 22 shows a palette full of a plurality of individual selectable
  colors on the left side)

- allowing the user to select a color from the palette, (pp 20, 23: user able to
  select a color)

- after the selection of a color by the user, modifying the content image by
  replacing one of the color components of the content image with the
  selected color, and displaying at least the modified content image to the
  user. (pp 20-22, 23-25: user selects a color, clicks on the already modified
  portion of the content of colored filled in from pp 22, wherein pp 25
  discloses the new color replacing the old color. pp 20-22 discloses
  replacing the portion of content that is white with a color from the palette)

As per dependent claim 4, Coloring.com discloses a method wherein the element
is a shape and the grayscale is applied as pattern fill content of the shape. (eg. Pp17
discloses an image as a form of grayscale that contains multiple shapes that capable of

being pattern filled by a color within each shape. (pp 20-22 discloses an example of

pattern filling with a color of a element on the grayscale image)

As per independent claim 6, Claim 6 recites similar limitations as in claim 1 and is

similar rejected under rationale. Furthermore, Coloring.com discloses a system:

- a server and a color image software system encoded on one or more

  computer readable media (e.g. FIG 4 discloses a browser connected to a web

  page based on the URL supplied to the browser. It is inherent browser

  connect to servers to download web pages from the servers' data storage

  device to the computer the browser recites, therefore the browser downloads

  the web page (Coloring.com) from a server data storage device and is

  provided to the user computer through the browser. In addition, the interaction

  between the user and the functionality of Coloring.com is a system.)

- one or more markup language elements having at least one associated color

  attribute and having grayscale content image. (FIG 8 discloses a markup

  language element that is a graphic or image wherein it is a grayscale content

  image. Since grayscale content images contain color attribute such as black

  and white, thus Coloring.com images are considered grayscale images

  associated with a color attribute)

- supplying at least the element to a user computer for displaying to a user (

  FIG 4: Displays image to the user)

As per dependent claim 7, Coloring.com discloses system further comprising: at least one color selection tool, means for allowing a user to select at least one color with the color selection tool, and means for applying the at least one selected color as at least one color component of the content image. (pp20-22: A user selects a color on the color palette on the menu on the left. Then once the color has been selected, the user clicks on a pattern of a portion of the image to fill it with the selected color. Doing so fills the up that portion or pattern with that color shown)

As per dependent claim 8, claim 8 recites similar limitations as in claim 4 and is similarly rejected under rationale.

As per independent claim 10, Claim 10 recites similar limitations as in claim 1, 3 and 6 and is similar rejected under rationale.

As per independent claim 16, Coloring.com recites similar limitations as in Claim 1 and 10, and is similar rejected under rationale. Furthermore, Coloring.com discloses a, method comprising:

- receiving electronic product desire information, the information including identifiers of a plurality of colors, and (pp 8, 9-16,17-18: Coloring.com discloses a palette of colors that enable a user to from on the left. Therefore, Coloring.com discloses "receiving electronic product design information" as stated)

- processing the received information in the browser program to display an electronic product design to a user, the electronic design including at least the at least one element, the image content of the at least one element being

generated by applying at least one color from the plurality of colors as at least

one color attribute of the at least one element and using the at least color

attribute of the at least one element one component color of the grayscale

image content of the element.(Using Internet Explorer as shown to access

Coloring.com, Coloring.com discloses a "electronic design" that includes an

image or graphic that has one color replaced by one of the colors selected

from the color palette. (pp 20-22)

As per dependent claim 17, Claim 17 recites similar limitations as in claim 3 and

is similar rejected under rationale.

As per dependent claim 18, Claim 18 recites similar limitations as in claim 1 and

is similar rejected under rationale.

As per dependent claim 20, Claim 20 recites similar limitations as in claim 16 and

is similar rejected under rationale.

As per dependent claim 21, Coloring.com discloses allowing the user to place an

order for the production of one or more products from the electronic product design.

(Coloring.com discloses the ability to request print the electronic design after a color has

been replaced or in other words place an order for the production (printed copy) of the

electronic product design. PP 28 shows the a link that enables a user to print the

graphic. Clicking on the link shows pp 29 that shows just the modified image with colors

that were added. (PP 29 shows a screenshot taken on 11/9/2006 to show the complete

and working functionality of the feature within coloring.com that been accessible since

at least November 29, 2002.) Then using the File>Print (shown on pp 30), which pops

up a print dialog box (pp 31), a user can "order" a number of printed copies (products) of

the electronic design.)

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 2, 5, 9, 12, 15, and 19 remain rejected under 35 U.S.C. 103(a) as being

unpatentable over (Coloring.com, "Coloring.com - free online interactive coloring pages

and coloring books", 11/29/2002, pp 1-25) in further in view of (Sams Publishing, "Sams

Teach Yourself Microsoft Publisher 2000 in 10 Minutes", published 5/6/1999, printed

pages 1-11, 12-16)

(Added 11/9/2006: Examiner provides additional pages pp 12-16 of Sams

Publishing for the rejection of the newly added Claim 19 necessitated by the

amendment.)

As per dependent claim 2, Coloring.com discloses a method further comprising:

- displaying at least the content image to a user (pp 20, or 22)

- modifying the content image by replacing one of the color components of the

   content image with at least one of the selected colors, and displaying the at

   least the modified content image to the user. (pp 20-22, 23-25: user selects a

   color, clicks on the already modified portion of the content of colored filled in

from pp 22, wherein pp 25 discloses the new color replacing the old color. pp

20-22 discloses replacing the portion of content that is white with a color from

the palette.)

However, Coloring.com fails to specifically disclose providing a plurality of color

groups, allowing the user to select a group from the plurality of groups, and after the

selection of a group by the user modifying the content image by replacing one of the

color components of the content image with at least one of the selected colors in the

selected group. However, Sams Publishing discloses one of Microsoft Publisher 2000

feature that provides a plurality of color schemes which the user is able to choose a

scheme for coloring purposes. (pp 4) It would have been obvious to one of ordinary skill

in the art at the time of Applicant's invention to have modified Coloring.com ability to

color images on a web page with Sams Publishing's disclosure of Microsoft Publisher

2000 ability to choose coloring schemes since it would provided the user options of to

make personalized customizable publication based on the users interests. Thus, after

selecting a color scheme, a user would be able to select a color from the selected

scheme to modified the content image.

As per dependent claim 5 and 19, Coloring.com discloses the ability to save the

modified graphic or image by right-clicking and saving it to a user's system. (pp 26-27)

However, Coloring.com fails to disclose incorporating the content image into an

electronic product design, displaying the electronic product design to the user, and

allowing the user to place an order for the production of one or more products from the

electronic product design. However, Sams Publishing discloses that Microsoft Publisher

2000, hereinafter "Publisher", has the ability to create publication pages that include flyers, postcards etc. (pp 1-7) Thus, a user can create a flyer using the publication wizard, then use the insert picture option. (pp 8-10) Doing so, incorporates the saved modified image from the user's system into Publisher's flyer where it is displayed to the user. In addition, a user can request to print the publication which allows the user to request the publication on paper (product) through the Print options of Microsoft Publisher 2000 (pp 12 –16)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Coloring.com's method of coloring grayscale images to include Sam's Publishing disclosure of Publisher that enables a user to incorporate images and graphics into a publication since Sams Publishing's disclosure of Publisher provides the benefit of using Publisher which is an easy-to-use desktop publishing tool that allows a user to create variety types of publications that include importing images or graphics to make it look professional.

As per dependent claim 9, claim 9 recites similar limitations as in claim 5 and is similarly rejected under rationale.

As per dependent claim 12, claim 12 recites similar limitations as in claim 5 and is similarly rejected under rationale.

As per independent claim 15, Claim 15 recites similar limitations as in claim 3 and is similar rejected under rationale.

Response to Arguments

11.   Applicant's arguments filed 2 November 2006 have been fully considered but they are not persuasive.

12.   In regards to page 9, in reference to Claims 1, 3, 4, 6-9, 13, 14, 16 and 17, Applicant argues that a grayscale image is not a black and white image while failing to provide any supporting technical reference or dictionary definition to characterize the black and white used by Liu as a grayscale image. First, Examiner is unsure what the Applicant means by the use of application of Liu and the use of the name Liu since the Examiner did not use the application of Liu for any rejection in the previous Office Action, and therefore, will not view the references to the Application of Liu into consideration within the arguments.

Second, Examiner provides the reference, Microsoft's Digital Photography Glossary, (hereinafter Microsoft) published May 1, 2002, to support that grayscale images are only two colors shown, black and white; wherein black and white images are a form of grayscale images. Microsoft discloses on page 2 under the definition of the term "grayscale" being defined as a photo made up of varying tones of black and white wherein **grayscale is synonymous with black and white**. Therefore, grayscale images are view as black and white images according to provided reference.

13.   In regards to page 10, in reference to Claims 1, 3, 4, 6-9, 13, 14, 16 and 17, Applicant argues that the Examiner's rejection do not reflect the language of the pending claims wherein the Applicant states as it is: *"Referring to the first paragraph on*

page 6 of the action of August 9, the Examiner indicates that the rabbit drawing is composed of multiple markup language elements that each are capable of accepting content. One example of such an element is the rabbit's abdomen on page 21 of the Coloring.com materials. In the second paragraph on page 6, the Examiner takes the position that Liu teaches applying the rabbit drawing as image content of an element. In these two paragraphs on page 6 of the action, the Examiner is describing mad shifting between two different elements, in the first paragraph, the Examiner is referring to the individual component regions of the rabbit drawing that can each be associated with a color. In the second paragraph, the examiner is referring to a completely different element that could have the entire rabbit drawing as image content." Applicant discloses the claims *"relate to a single element that has at least one associated color attribute and also has grayscale image content to which the at least one associated color attribute is applied as at least one component color."* However, the Examiner disagrees.

The Examiner believes the Applicant misinterpreted the Examiner original explanation of the first limitation of Claim 1 to be viewed as multiple elements instead one whole element accepting content wherein the Examiner discloses one graphic or image accepts image content throughout the rest of the limitations. To clear up the misinterpretation, the Examiner has rewritten the explanation of the first limitation for a clearer understanding. As disclosed above, Coloring.com, as shown on pp 6, 7, 8, 9-16,17-18, discloses a web site, using a browser, having the ability to show markup elements (pp 6, list of the images or graphics the user may choose), wherein each markup element is an graphic or image being shown capable of being separately shown

to the user (pp 8 discloses on embodiment) of receiving colors (color is an attribute of

an image, thus image content) from the palette on the left menu of colors. Furthermore,

Coloring.com, as shown in pp 9-16, and 18, discloses the source code behind the web

page of the markup language element (graphic or image) wherein in its visual form,

displays a graphic or image that contain many patterns and shapes used to form a

visual figure, which a person is capable of identifying, e.g. a rabbit on pp 8, on a

different colored background. The image has itself has different mapping zones

with the use JavaScript to provide further functionality with the use of coloring of the

graphic or image (e.g. bunny image) The code written in HTML enables the graphic or

image to accept colors. In addition, a user can choose among the colors on the palette

to the left .(pp 8, 17)

Second, Coloring.com discloses the ability of a user to select a color on the color

palette on the menu on the left. Then once the color has been selected, the user clicks

on a pattern of a portion of the image to fill it with the selected color. Doing so fills the up

that portion or pattern with that color as shown in pp 20-22.

Conclusion

14.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not
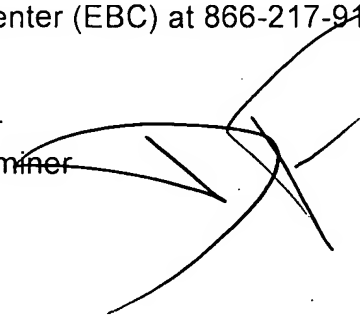
mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David Faber whose telephone number is 571-272-2751.

The examiner can normally be reached on M-F from 8am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Stephen Hong, can be reached on 571-272-4124. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER